

## **DECISION MEMORANDUM**

**TO: COMMISSIONER KJELLANDER  
COMMISSIONER SMITH  
COMMISSIONER RAPER  
COMMISSION SECRETARY  
JOE LECKIE  
ELLIS HIRE  
COMMISSION STAFF**

**FROM: DON HOWELL  
DEPUTY ATTORNEY GENERAL**

**DATE: AUGUST 21, 2015**

**SUBJECT: UPDATING THE COMMISSION'S RAILROAD SAFETY AND  
ACCIDENT REPORTING RULES, IDAPA DOCKET NO. 31-7103-1501**

The Commission's Railroad Safety and Accident Reporting Rules (IDAPA 31.71.03) adopt by reference the federal safety regulations pertaining to the transportation of hazardous material by rail. In particular, Rule 103 adopts various parts of Title 49, Code of Federal Regulation (CFR). Currently, Rules 103 and 104 adopt the October 1, 2013 edition of the CFRs.

The Staff proposes that the Commission adopt the current version of the CFRs published on October 1, 2014. This would include recent changes to 49 C.F.R. Parts 171-174, 179 and 180. The proposed changes are attached for your review.

### **CFR CHANGES SINCE 2013**

Since Rule 103 was last updated in 2013, the Pipeline and Hazardous Material Safety Administration (PHMSA) has made several changes to the railroad hazardous material rules. In particular, PHMSA amended 49 C.F.R. Part 173.150 revising procedures and restrictions for the shipping of various amounts of ethyl alcohol in liquid or solid form. These changes became effective on April 17, 2014. 79 Fed.Reg. 15,033-01, 15,040-46 (March 18, 2014). The current edition of Title 49 of the CFRs was published on October 1, 2014.

### **STAFF RECOMMENDATION**

Because these federal safety regulations are mandatory for rail carriers and shippers, Staff recommends that there is no need or requirement for a negotiated rulemaking.

## COMMISSION DECISION

Should Rules 103 and 104 of the Commission's Railroad Safety and Accident Reporting Rules be updated by the adoption of the 2014 CFR provisions concerning the transportation of hazardous materials by rail? Does the Commission wish to forward these proposed changes to the Administrative Rules Coordinator for publication in the next Administrative Bulletin to be issued on October 7, 2015?

*Don Howell*  
Don Howell  
Deputy Attorney General

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